

Butte County Department of Agriculture Pesticide Use Enforcement Program Planning Guidance and Evaluation 1-1-2009 thru 12-31-2012

County Resources

The county resources stated below show the division of PUE time as a fully staffed department.
Assistant - 1: 60% of time in PUE program.

- ♦ Deputy - 1: 60% of time in PUE program.
- ♦ Deputy – 2: 20% of the time in PUE program
- ♦ Supervising Biologists - 2: 60% of time in PUE program.
- ♦ Inspectors - 6: 60% of time in PUE program.
 - 1 - Senior Biologists
 - 4 - Inspector III
 - 1 - Inspector I
- ♦ No additional staff person currently trained to perform PUE.
- ♦ Approximate percentage of work time required for additional programs performed by staff conducting PUE activities are as follows:
 - Pest Exclusion: 25%
 - Pest Detection: 2%
 - Certified Seed/Seed: 5%
 - Nursery: 2%
 - Direct Marketing: 3%
 - Organic: 2%
 - Crop Statistics: 1%

A. Restricted Materials Permitting (RMP)

RMP - Permit Evaluation

- ♦ Approximate restricted material permits issued annually: 1,120 Agricultural and 44 Non-ag.
- ♦ The majority of the permits issued are for phenoxy herbicides, paraquat, aluminum phosphide, strychnine, carbaryl, molinate and cyhalofop butyl.
- ♦ Permits are approved and issued by nine licensed and trained staff:
 - Deputy issues 10% of permits
 - Supervisors issue 25% of permits
 - Inspectors issue 65% of permits
- ♦ All restricted material permits are issued in our main office or one of our district offices.
- ♦ All restricted material permits are prescreened for hazards necessitating denials.
- ♦ Restricted permits are only issued or renewed after verification of having passed private or qualified applicator certification exam.

- ♦ County administers private applicators exam on an individual basis.
- ♦ Appointment is required for permit issuance and certification exam. Ability to issue permits and exams without a permit varies by office, staffing and permit calendar.
- ♦ Permit time varies by season and permittee, averaging approximately 1 hour.
- ♦ Administering private applicator exams takes an average of 1.5 hour.
- ♦ Issuance or renewal of restricted material permits includes an evaluation of potential adverse environmental impact or health effects based on the following:
 - A review of current maps or development of new maps to evaluate surrounding and adjacent properties. For the 2009 permit season our Department will be using the new AgGIS3 program. All three offices will identify and map growing sites on the “AgGIS3” program. The Gridley district office currently uses aerial maps taken in 2003. The Gridley district office is scheduled to be connected to the AgGIS3 program by early 2009.
 - Discussion with the applicant.
 - Knowledge of our local area.
- ♦ Permits are entered into the “Ag GIS 3” program and printed out for signature.
- ♦ A Letter of Authorization is required for issuance or signature of a permit by anyone other than the property operator.
- ♦ Beginning in 2009, Permits for permanent crops are valid for three years, expiring on December 31st of the year the growers Private Applicators Certificate expires. Permits with non-permanent crops will expire on December 31st of each year, exception; permits exclusively for rice expire on March 31st of the year after they are issued. The extension of the permit allows the grower to complete preplant work and to not come into the office until all rice chemical permit conditions have been determined. All growers with an expired private applicators certificate must renew their certification upon expiration.
- ♦ All production agriculture permits are site specific and maps are required.
- ♦ Sites on each permit are identified in a manner that most simplifies identification for both the grower and our department.
- ♦ Adjacent crops and sensitive areas are identified on each map.
- ♦ Handouts reviewed with permittee are designated and checked off on the Butte County Pesticide Permit Conditions. These conditions are reviewed and reissued each year. Grower or Pest Control Business must sign the permit conditions before RMP is issued.
- ♦ Permittees pesticide use reporting history and noncompliance or enforcement action history is reviewed and discussed (if applicable) before RMP is issued.
- ♦ Permittees are asked if they have employees who handle pesticides and for those permittees that have employees who handle chemicals; WPS regulations are reviewed.
- ♦ Approximately 4,000 NOI’s are received each year.
- ♦ NOI’s are required for all production agriculture applications of restricted materials. NOI’s must be submitted to our office at least 24 hours in advance of the application.
- ♦ NOI’s may be submitted in person, by phone or fax machine. Our main office has a dedicated NOI line for growers to verbally submit NOI’s. NOI’s are only picked up on weekends during rice season.
- ♦ NOI’s are submitted on a log sheet developed by Butte County to ensure all required information is properly submitted. Log sheets may be used by permittee as a template when submitting NOI via telephone.

- ♦ The office assistant transcribes NOI's left on voice mail to an NOI log, ensures the NOI's are given to the proper district office and files NOI's in binders according to month and district office. Licensed PUE staff in each district office review NOI's at least daily. Each NOI is signed off on by licensed staff.
- ♦ Each year we perform presite inspections on at least 5% of the submitted NOI's and it is our goal to complete presite inspections on 7.5% of all submitted NOI's. Sensitive applications will have the highest priority for presite inspections. Sensitive applications include sites near areas identified to be environmentally sensitive such as schools, daycare centers, agriculture/urban interfaces, and wildlife areas or in areas that have pesticide sensitive individuals.
- ♦ For permit amendments, a notation is made on the permit for small changes. Larger, more significant changes require the permittee to sign and to date the amendment. In some instances changes can be made via the fax machine.
- ♦ Butte County hosts at least one CE Laws and Regulation workshop per year.

RMP - Strengths

- ♦ The Butte County Department of Agriculture is currently fully staffed. Our licensed PUE staff is experienced in restricted material permitting.
- ♦ The staff's experience and knowledge of local conditions helps to reduce substantial adverse environmental impacts. Having 3 offices located in different areas of the counties allows the inspectors to concentrate on their district and to gain experience in a localized area instead of the entire county.
- ♦ Issuance of the three year permit for permanent crops allows the inspectors to spend more time in the field. The issuance of one year permits for non-permanents crops allows for regular review of permits, reducing the potential for adverse impacts.
- ♦ Development of comprehensive General Information and WPS forms gives the permittees an easy to read explanation of the regulations they are required to follow. Prior to the 2007 permit renewal season we included a reminder to the General Information Handout informing growers that Glyphosate products and non-exempt organic products are pesticides and their use must be reported on monthly use reports and anyone "using" these products are considered Pesticide Handlers".
- ♦ Since the 2005/2006 FY the Ag GIS mapping program in the Oroville and Chico office's has significantly increased the overall consistency, accuracy and the quality of permittee maps. As of 2009 all three Butte County Offices will be using the new AgGIS3 program. As we make the changeover in the upcoming year to the AgGIS3 program we will strive to further improve the quality of our mapping program.
- ♦ In the last year, we have continued to increase grower awareness and compliance with the regulation to have a Letter of Authorization signed by all required parties and on file (when applicable).
- ♦ We have a consistent program of Pesticide Use Reporting enforcement. Each permittee PUR history is evaluated before a RMP is reissued. Compliance and enforcement action is taken as necessary.
- ♦ Our permittees holding restricted material permits for rice chemicals have a history of good compliance with our rice chemical permit conditions and seepage requirements. This is due to Butte County's history of permittee education and enforcement of the regulations.

RMP – Areas That Need Improving

- ♦ Increase efforts to review permittee data page for accuracy, i.e. phone numbers, addresses. This will be accomplished in the upcoming year. With the new AgGIS3 program all permittee contact information needs to be re-entered.
- ♦ We need to develop a system to track non-ag restricted material permittee NOI compliance.
- ♦ PUR submittal by Organically Registered and/or certified growers using non-exempt pesticides is not at the level it should be.

RMP – Goals or Objectives

- ♦ The goal of the Butte County Department of Agriculture is the commitment to improve the business process associated with the evaluation of restricted materials permit application and review of notices of intents (NOI's) and to use the information to determine potential risks and to prevent adverse effects of the application of restricted materials.

RMP - Deliverables

- ♦ Enforce Laws, Regulations and follow Department of Pesticide Regulation (DPR) guidelines.
- ♦ Issue Permits utilizing the “Ag GIS3” permitting system that incorporates GIS fields in timely manner. Until a system is installed that allows additional homes and other sensitive areas to be added to the mapping system, these sensitive areas will be marked on each map by hand after the map has been printed. .
- ♦ Evaluate permits for adverse environmental impacts.
- ♦ Approve, Deny, Condition permits as necessary.
- ♦ Permit denials for pesticides shall be documented on a proper denial form and counted on the PRAMR and filed.
- ♦ Record and evaluate and sign-off on all NOI's by licensed PUE staff.
- ♦ Incorporate a system of periodic NOI compliance checks.
- ♦ Review permits for completeness and accuracy concentrating on current phone numbers, addresses, acreage, proper commodity codes and if permittee employs workers that handle pesticides. Ask targeted questions to ensure that the permittee understands the meaning of “handle” and that “pesticide” does include all herbicides.
- ♦ Address problem areas with training, timelines and follow-up reviews.
- ♦ Review permit evaluation process with licensed staff and with our DPR liaison on a quarterly basis.
- ♦ Work towards increased compliance of pesticide use reporting regulations, ensuring that PUR's are submitted in a timely and accurate manner.
- ♦ Compile a list of non-agricultural restricted material permittees and periodically review NOI log to ensure NOI compliance.
- ♦ Develop a system to track PUR submittal by “Organic” growers using non-exempt pesticides.
 - Identify out of compliance growers
 - Educate identified growers
 - Implement ERP guidelines when applicable.
- ♦ Evaluate if PUR submittal compliance is improving with continued enforcement.

RMP - Measures of Success

- ♦ The best measure of success is the yearly evaluation of our permit process for deficiencies. This will include:
 - A review of RM permits for accuracy, timeliness, map consistency, Letter of Authorizations if needed and the issuance of proper forms.
 - Non-compliances, could more effective permit issuance prevented or mitigated some of the years non-compliances.
 - PRAMR data.
- ♦ We will discuss with licensed staff and DPR Enforcement Branch Liaison (EBL) our permit evaluation process periodically to find (if any) deficiencies and develop a plan of action to address identified deficiencies or area of concern.

Site-Monitoring Plan Development (SMDP)

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- ♦ Approximately 5,466 annual sites.
- ♦ The majority of the permits issued are for phenoxy herbicides, paraquat, aluminum phosphide, strychnine, carbaryl, molinate and cyhalofop butyl.
- ♦ The counties main crops are rice, almonds, walnuts, prunes and peaches.
- ♦ A minimum of five percent of the sites identified in permits or NOI's will be monitored by licensed staff.
- ♦ Monitoring will include evaluation of the basis for the intended application including:
 - The basis for the intended application including written recommendation.
 - Toxicity of material, category I are first priority, environmental concerns i.e. endangered species, buffer zone areas, school areas, ag-urban interface areas, ground water protection areas, problem areas identified from previous years, section 18 registrations, etc.
 - Permit holders with a recorded non-compliance will be monitored more frequently.
- ♦ Inspections will be spread throughout the county, with priority given to those who submit NOI's infrequently and sensitive applications.
- ♦ All nonagricultural permittees are required to submit an NOI each year for the first application of each restricted material and every time they apply a restricted material to an acre or more.
- ♦ Copies of all inspections will be kept in permit holder files to address non-compliance history and increased monitoring needs.

SMDP - Strengths

- ♦ Our department consistently monitors submitted NOI's and completes considerable more presite inspections than the required 5%.
- ♦ Though our county has a large amount of RM Permits, the majority of our agriculture is the production of rice and orchard crops. This allows our licensed staff to familiarize themselves with the pesticides applied and the application patterns of the majority of our growers.
- ♦ Districts allow our licensed inspectors to know the areas they monitor and the changes that occur in those areas, i.e. urban development, new permittees, new farming practices.

- ♦ The 2006/2007 development of a new Notice of Intent Log that required more evaluation by our licensed inspectors. We will the use of the “new” NOI log in the upcoming year.

SMDP - Areas That Need Improving

- ♦ Review of Pesticide Advisor recommendations to assist in assessment of NOI.
- ♦ More time should be taken in review of NOI's; ensuring that permittee has a current permit, the crop listed for the site is the same as on the current permit, pesticide listed on the NOI is labeled for use on the crop and checking maps for sensitive areas.

SMDP - Goal or Objective

- ♦ A commitment to implement measures that ensure site-monitoring plan that takes into consideration pesticide hazards such as but not limited to agriculture/urban interface, ground water protection areas, local conditions such as the rice monitoring program, cropping and fieldwork patterns and handler, permittee, and advisor compliance histories.
- ♦ A goal of 5.0% of the NOI's received to have presites conducted each fiscal year. This will help identify sensitive areas or changes in the surrounding environment to application sites prior to the pesticide application being conducted.

SMDP - Deliverables

- ♦ Rice monitoring program
 - Conduct and document at least 150 water hold inspections to assure that no illegal releases occur. This number has decreased due to the decrease in the number applications of chemicals that require a waterhold.
 - Monitor rice pesticide applications to ensure compliance with worker safety, buffer zone requirements, and Butte County permit conditions.
- ♦ Agriculture/urban pesticide applications
 - Monitor applications to ensure safety to residences, schools and businesses.
- ♦ Ground Water Protection Areas (GWPA)
 - Track GWPA to ensure that prohibited GWPA pesticides are not applied in those areas.
 - Track pesticide permits in GWPA and focus on conducting application inspections to ensure that no GWPA chemicals are used.
- ♦ Completely review each notice of intent to ensure:
 - A valid Restricted Materials Permit (RMP) was issued for the material to be applied to the intended site.
 - If applicable, review Pest Control Advisor recommendation.
 - Crop or application site is allowed by label/Section 18/permit conditions
 - Method of application is allowed by pesticide label & permit conditions
 - Dilution/volume per acre is appropriate
 - Material is appropriate for pest to be controlled
 - Surrounding areas will not be adversely impacted by application
- ♦ ~4000 NOI's are reviewed by this department on average every year (3,735 in 07/08, 4,381 in 06/07 and 3,891 in 05/06); during the 07/08 fiscal year 192 (5.14%) presite applications were conducted, during the 06/07 fiscal year 264 (6.00%) presite applications inspections were conducted and in the 05/06 fiscal year 289 (7.42%) presite applications inspections were conducted.

- Achieve 5% NOI presite inspections.
- Presite inspections will include an evaluation of the current permit holders map(s) to ensure any deficiency or inaccuracy are corrected.
- ◆ Address problem areas with training, timelines and follow-up reviews.
 - Make sure that all NOI's are approved or disapproved by licensed staff.
 - All NOI's that are denied shall be followed-up with a proper NOI denial form and counted for the PRAMR and filed.

SMDP - Measures of Success

- ◆ The best measure of success is the continuous evaluation of our site-monitoring plan for deficiencies, including:
 - Compliance with the rice monitoring program (targeted applications and number of water hold inspections) will indicate how well our department is monitoring this program.
 - Assessing the number of complaints received from agriculture/urban interfaces will help evaluate needs to address pesticide issues.
 - Conducting pesticide use monitoring activities by focusing in on NOI's in GWPA will assure that pesticides not approved for such areas are not applied.
 - Periodic review by licensed staff and by our DPR EBL will help in analyzing our measure of success in this program.
 - Our department will commit to implement, assess and amend our site-monitoring plan as needed. This will include "new" pesticides to focus on, environmental factors that need addressing, new priority programs put into place by this department or DPR or an outside agency. This department will document our assessment findings and any changes to our site-monitoring plan.

B. Compliance Monitoring

Compliance Monitoring (CM)

- ◆ Inspections are performed by 8 licensed and trained staff members:
 - 2 - Supervising Biologists – 20% of their duties
 - 1 - Senior Biologists - 30% of their duties
 - 5 - Inspector I, II, III - 25% of their duties
- ◆ Inspections are performed:
 - August – March, Monday through Friday, 7:30 am – 5:00 pm.
 - April – July, 7 days a week, 5:30 am – 5:00 pm
- ◆ 23% of our inspections are scheduled.
 - Headquarter Inspections
 - Fumigation inspections
 - Worker safety Inspections
 - Dealer/PCA Inspections
 - Non-Ag first-time RM use inspections
- ◆ 27% of our inspections are targeted inspections, prioritized by:
 - Chemical hazard
 - Environmental concerns
 - Applicator compliance history
 - Concerns of adjacent or nearby homeowners or landowners

- Agricultural/urban interface issues
- ♦ 50% of our inspections are random.
 - General production agricultural applications including a focus on periods of increased pesticide usage during bloom sprays dormant applications and rice pesticide application periods.
 - Maintenance gardener, structural and other non- production agricultural applications
- ♦ Grower headquarter inspections with employees are scheduled every 5 years. Inspection frequency increases if non-compliance level increases.
 - Butte County currently has approximately 340 documented growers with employees. Staff levels do not allow a higher frequency goal for our head quarter inspections.
- ♦ PCO headquarter inspections are scheduled every 1-2 years. Production agricultural inspections every year, structural and maintenance gardener inspections every 2 years. Inspection frequency increases if non-compliance level increases.
- ♦ A major emphasis for 2008-2009 will be assessing grower and PCB compliance with the new respiratory protection regulations, and the regulatory requirements for use of sulfur dioxide (SO₂) by wineries for sanitation of wine barrels and corks. Outreach regarding necessary respirator program evaluation and record keeping requirements, as well as the SO₂ issue will be directed through continuing education classes; the County Ag. Commissioner's website; and grower and winery organizations.

The registration of the Fruit Doctor compressed SO₂ gas as a federally restricted material in September 2008 necessitates that wineries comply with regulations regarding the purchase and use of the product. Wineries will need an Op ID and a certified applicator (qualified applicator certificate or qualified applicator license). The ag. Commissioner's office began issuing Op IDs in October 2008. At this time, Butte County Pest Control Dealers (PCDs) are not supplying SO₂ or the Fruit Doctor SO₂ gas. At such time that our county PCD's do begin to supply Fruit Doctor gas, the office will conduct a dealer audit with the county SO₂ supplier and compare the list of SO₂ Op ID holders to the sales invoices. Outreach to regional industrial gas suppliers other than those known to be selling Fruit Doctor will be done to inform them of the requirements when selling SO₂ for pesticidal purposes. The office will provide guidance to wineries on obtaining a QAC or QAL with the new interim category "P" for SO₂ use.

CM - Strengths

- ♦ The distribution of the county workload in three distinct districts allows the inspectors to become familiar with the pesticide usage, cropping patterns and compliance history of the growers in their areas.
- ♦ The large size of each of the districts and the lack of dedicated PUE staff does not allow the inspectors to be so familiar they become complacent with regards to monitoring activities.
- ♦ An effective targeted inspection plan utilizing the following components:
 - Implementation of a comprehensive GIS site mapping program.
 - Centralized Notice of Intent system to help assist staff in two district offices.
 - Implementation of a non-compliance tracking utilizing copies of all inspections in permittee file.
 - Chemical hazard/proximity to adjacent or nearby sensitive or urban areas

- ♦ Increased compliance monitoring activities at sites near areas identified to be environmentally sensitive such as schools, daycare centers, agriculture/urban interfaces, and wildlife areas or in areas that have pesticide sensitive individuals.
- ♦ A scheduled inspection process that is effectively identifying non-compliances during property operator worker safety training and record keeping inspections.
- ♦ Frequency of management involvement in staff inspection activities has been successfully increased to semi-annually.
- ♦ Inspectors are consistently utilizing their PUE manuals during filed inspections.

CM - Areas That Need Improving:

- ♦ Uniform enforcement implementation throughout the county enforcement districts. In late 2008 our department re-organized our personnel working in the district offices. This change has increases the staffing level of our Gridley office by one biologist and will allow our Gridley office more inspection and field time.
- ♦ Maintaining up to date files for non-compliances in permittee files. In 2009, we will be implementing an electronic data collection system for all inspections performed. This system will allow queries and improvement of overall inspection tracking.
- ♦ Uniform completion of application inspection forms, including:
 - An explanation of each non-compliance listed in the “remarks” section or on a supplement form.
 - Checking the appropriate box and knowing when “N/A” is the appropriate box to check.
 - Including an actual label from the worksite or including a picture of the E.P.A. number and PPE requirements taken from the label at the worksite with the final inspection.

CM - Goals and Objectives:

- ♦ To increase compliance with pesticide laws and regulations involving pesticide use within Butte County.
- ♦ To increase the time spent on Pesticide Use Monitoring during the “dormant” season.
- ♦ A commitment to implement a comprehensive compliance inspection plan, based on the findings of the evaluation identified above, to ensure pesticide users are adequately monitored throughout the county.
 - Special focus will be placed on areas of non-compliance identified during property operator headquarters safety inspections.
- ♦ To create and utilize a computer program designed to track Permittee history including inspections, compliance and enforcement actions.

CM - Deliverables

- ♦ When multiple worker safety violations are discovered during monitoring inspection activities a headquarters inspection will be performed where feasible.
- ♦ Management will perform semi-annually “oversight inspections” for each enforcement biologist during each fiscal year.
- ♦ District biologists will be rotated into other districts areas to help assess variations in enforcement stance within the county districts.
- ♦ Management will conduct periodic reviews of inconsistencies in inspection form completion with staff to increase consistency within the county.

- ♦ Biologists will be reminded to consistently have their PUE manual with them in the field and to refer to their manual when questions arise.
- ♦ All original inspection forms will be kept in the permittees permit file in the Oroville office. Additionally, a copy of each inspection shall be filed in the permittees file at the appropriate district office (if applicable).

CM - Measuring Success

Based on our inspection program evaluation the following inspection goals were determined to be implemented for the duration of the work plan:

PRE-SITE APPLICATION	5.0%
MIX & LOAD	
PROPERTY OWNERS	25
BUSINESS	35
HEADQUARTERS/EMPLOYEE SAFETY	
GROWERS/OTHERS	30
BUSINESS	15
STRUCTURAL	15
APPLICATION INSPECTION	
GROWERS	40
BUSINESS	50
STRUCTURAL PEST CONTROL	
BRANCH I	Attempt 100% inspection
BRANCH 2/3	10
COMMODITY FUMIGATION INSPECTION	4
FIELD FUMIGATION INSPECTION	Attempt 100% inspection
FIELD WORKER SAFETY INSPECTION	5
PEST CONTROL BUSINESS RECORDS	
PESTICIDE DEALER	Attempt 100% inspection
ADVISER	5
WATER HOLD INSPECTIONS	150
Investigations:	
Human & Environmental Effects Property Loss Etc. = 100% INSPECTION	

We have set the inspection target numbers as above to reflect that of a seasoned staff. Targeted surveillance activities will be carried out during the Rice Pesticide Program as in past years. We will also perform targeted surveillance when needed as determined by environmental concerns and applicator compliance history. Targeted inspections will be used to most efficiently focus manpower on areas of the enforcement program to improve compliance within the county.

Management staff will completely review all inspection reports and activities of the enforcement personnel. All non-compliances will be tracked and followed up on as required. Management will accompany enforcement staff during inspection activities throughout the year and perform

“oversight” inspections to assess activities in the field and make changes as warranted to ensure an effective program.

CM - Measures of Success

- ♦ The goal of a comprehensive inspection plan is to increase compliance. A decrease in non-compliances found can be an effective indicator of success if all other things are equal. Striving to increase the effectiveness of our compliance activities by further refining focused and targeted inspection schemes may in the short term, increase the number of non-compliances identified. Our current plan will allow for flexibility for changes that may occur with pesticide use activities or with changes in priorities within the county or at the state level. Periodic review by licensed staff and by our DPR EBL will help in analyzing our measure of success in this program.

Investigation Response and Reporting Improvement

Investigation Response and Reporting (IRR)

- ♦ Pesticide –related investigations are conducted by all Agricultural staff.
 - Assistant is responsible for enforcement relating to all investigations.
 - Deputy is responsible for over-site on all investigations
 - Senior Biologists/supervisors are responsible for priority investigations and 50% of all other investigations.
 - Inspector I, II and III’s are responsible for 50% of all investigations.
- ♦ The primary reason for failure to initiate investigations is due to the lack of receipt of the Doctors First Report and/or other paperwork notifying the Butte County Department of Agriculture of the investigation to complete. This has greatly improved due to the contract with CPCS (California Poison Control System).
- ♦ The primary reason for failure to complete investigations/reports in a timely manner is due to inability to make contact with the parties involved in the investigation and medical facilities not responding to record requests in a timely manner. In these cases, the inspector will document all attempts to contact the parties involved.
- ♦ 2005/2006: The Butte County Department of Agriculture received 8 episode notifications for the FY of 2005/2006
 - 1 Priority Investigation. The (1) priority investigation was initiated within 2-days and completed on time. The priority investigation had all the information necessary to provide preliminary findings to the Regional Office within 15 days of notification.
 - 7 Non priority investigations were conducted. All received timely initiations and all were completed in 120 days.
- ♦ 2006/2007: The Butte County Department of Agriculture received 8 episode notifications for the FY of 2006/2007.
 - 0 Priority Episode Investigations.
 - 8 Non-Priority Episode Investigations were conducted.
 - All 8 investigations received timely initiation and all of the 8 were completed within 120 days.
- ♦ 2007/2008: The Butte County Department of Agriculture received 15 episode notifications for the FY of 2007/2008
 - 1 Priority Episode Investigations.
 - 14 Non-Priority Episode Investigations were conducted.

- All 15 investigations received timely initiation and all of the 15 were completed within 120 days.

IRR - Strengths

- ◆ The current investigation response process strengths are:
 - Investigators are experienced and have good writing skills
 - A good basic investigation write - up format is provided to staff
 - Timelines established with staff for turn around times of investigations
 - Tracking by Deputy CAC for timeliness
 - Compliance/Investigation log as per ENF 95-043
 - In 2005 digital cameras were issued to each biologist. The main purpose of these camera's were for supporting evidence for all pesticide related investigations and enforcement.

IRR - Areas That Need Improving

- ◆ Areas identified as needing improvement are:
 - Creative and complete information gathering skills.
 - Clarification of departmental approval process for major investigation decisions, such as sample gathering, processing and submittal processes.

IRR - Goal or Objective

- ◆ A commitment to implement an investigation response plan, based on the findings of the evaluation identified above to ensure all investigations are completed in a timely manner with accurate and supportive information.

IRR - Deliverables

- ◆ Timely initiation and completion of all priority and non-priority investigations.
 - Start priority episode investigations within 2 working days of receiving
 - Submit preliminary update on priority investigation to DPR within 15 days
 - Require assistance from DPR staff liaison in priority investigations
 - Complete all investigative reports within 120 days
- ◆ Development and use of investigation plan
- ◆ Thorough report preparation, including; the use of contacts logs and the use of digital photographs to support the investigation.
- ◆ Inspectors will be encouraged to develop their information gathering skills and to think creatively when gathering information.
- ◆ Inspectors will be expected to complete a thorough and accurate investigation in a timely manner.
- ◆ New inspectors will be paired with more experienced staff until they have gained enough experience to complete an investigation themselves.
- ◆ Utilize the Investigative response plan.
- ◆ Tracking system for assuring episode notifications and investigations are completed in a timely manner.

IRR - Measures of Success

- ♦ The best measure of success is the yearly evaluation of our investigation and response reporting for deficiencies. We will discuss with licensed staff and DPR Enforcement Branch Liaison (EBL) our investigation and response reporting process periodically to find (if any) deficiencies and develop a plan of action to address identified deficiencies or area of concern. Periodic review of all investigations will be imperative to assure that all priority investigations be reported to EBL immediately and a 15 day report is submitted. Additionally, complete all priority investigations within 60 days of the date of the priority incident or when the Butte County Department of Agriculture was notified of the incident. All non-priority investigations are completed within 120 days. The number of returned or incomplete investigations will also show a direct correlation to the success of this program.

The Butte County Department of Agriculture has identified that our investigative response and reporting has resulted in thorough and timely completion of episode investigations and an increased in compliance with the initiation and completion of our county program. The investigations that were conducted were effective in fact finding and information gathering. The investigative reports were not always conclusive in explaining why or how the episode occurred, but presented the facts in an orderly manner. The investigations allowed us to take appropriate enforcement action when causal violations were discovered. The Butte County Department of Agriculture program includes episode prevention education to prevent similar episodes from reoccurring at the local applicator or business program level.

C. Enforcement Response

Enforcement Response Evaluation

Current Enforcement Response Practices (CERP)

- ♦ Inspections and investigations (pesticide illness investigations & complaints) are reviewed by the District Supervising Agricultural Biologists and then by the Deputy Agricultural Commissioner.
- ♦ Those that indicate a non-compliance have a Butte County Department of Agriculture enforcement recommendation form attached for further compliance or enforcement action (if deemed necessary). This form allows the agricultural biologists to make a recommendation on compliance or enforcement action based on the monitoring inspection conducted. The monitoring and recommendation form is then reviewed by the supervisor and then the deputy, each has an opportunity to make a recommendation on the type of action that they recommend.
- ♦ The non-compliance is reviewed lastly by the assistant agricultural commissioner. The enforcement guidelines (issued jointly by DPR and CACASA) are followed. The decision as to the appropriate action is made by the Deputy in conjunction with the Assistant Agricultural Commissioner with input from any Biologist that has information that is pertinent to that action.
- ♦ During this meeting, the investigation or inspection is reviewed to ensure that adequate evidence is present to prove any cited violations. If the evidence is inadequate to prove the violation, the case is returned to the inspector for further investigation or if inadequate evidence is available, the case is returned to the inspector with justification as to why we are not taking any type of enforcement response relating to the non-compliance. All non-compliances are addressed and whatever action or inaction response is documented as per DPR's Enforcement Response Policy.

- ♦ Actions, depending on the type, compliance or enforcement actions are handled differently. Most all compliance actions are written by the inspectors and are reviewed by the District Supervising Agricultural Biologist and the Deputy CAC. The Deputy CAC also issues compliance actions. All enforcement actions are proposed by the Deputy to the Assistant Agricultural Commissioner. The Assistant writes all enforcement actions and forwards them to the Commissioner for approval and signature.
- ♦ Compliance and enforcement actions are to be completed and turned into the Deputy for review prior to the end of the month in which the inspection took place (approximately 2-3 weeks). In most cases, actions should be delivered to the respondent within 45 days of the inspection or completion of investigation.
- ♦ The Assistant CAC responsible for maintaining a log of all enforcement actions: their status certified mailing, etc. This log is reviewed by the Assistant CAC every month when preparing the PRAMR.

CERP - Strengths

- ♦ When properly followed (and not interrupted by other office emergencies), these practices result in a timely response to non-compliances.
- ♦ Use of PUE inspectors when deciding actions helps to get all the mitigating factors out on the table prior to taking an action and also results in more even and consistent enforcement.
- ♦ Review of evidence at the PUE staff meetings & returning those with inadequate evidence, helps inspectors to understand what level of evidence is needed to prove a non-compliance and leads to more complete future inspections or investigations.
- ♦ Documentation of review of all non-compliances is necessary if our program is ever monitored by the public and also during oversight of our program by DPR.

CERP - Areas That Need Improving

- ♦ To increase communication between the three county offices. Currently, PUE staff meetings are being regularly held within the district offices but not as a group. In the fall of 2008 we began holding monthly supervisor meetings, which have helped to increase communication between the district offices.
- ♦ Address all non-compliances in a timely. Currently all Notice of Proposed Actions (NOPA's) are written by the Assistant Commissioner. The current workload does not always allow these to be issued in as timely a manner as we would prefer them to be issued.

CERP - Goal or Objective

- ♦ The goal of the enforcement response plan summarized above is to provide a swift and fair response to non-compliances that result in future compliance by the respondent. The actions must be consistent and fair in order to maintain the respect of the regulated industry as well as maintaining the integrity of this office.

CERP - Deliverables

- ♦ Consideration of all appropriate enforcement options
- ♦ Application of the Enforcement Response Regulation (ERR) in a fair and consistent manner. Work to develop a foundation for consistent implementation of the ERR in Butte County. Periodically review progress and address strengths and areas that need improvement.

- ♦ Address all non-compliances in a timely and consistent manner.
- ♦ Use of Citable Sections as resource
- ♦ Application of the Fine Guidelines
 - Timely response
- ♦ Set PUE staff meetings on regular schedule
- ♦ Oversee support staff to be sure
 - Steps County undertakes to follow through on pending action
- ♦ Each month non-compliances actions are reviewed by Deputy
- ♦ Deputy maintains copy of any outstanding non-compliance to ensure the actions are completed in a timely manner.
- ♦ Schedule or Milestones
 - Day 1 - Inspection or investigation completion with evidence of non-compliance
 - Days 2-7 – Turn in to supervisor for review and recommendation
 - Days 7-14 – Turn in to Deputy for review and recommendation
 - Days 14-21 – Inspection reviewed by Deputy, if non-compliances noted and recommendation are for compliance or enforcement action.
 - Days 21-28 – PUE meeting/conversation held where non-compliance is reviewed and action decision is made, returned to inspector for compliance action
 - Day 28 – 35 – Enforcement actions written by assistant agricultural commissioner– if compliance action, it is then forwarded to support staff for mailing – if enforcement action, it is then forwarded to agricultural commissioner for secondary review and approval
 - Day <45 – Commissioner signs action and then it is returned to assistant agricultural commissioner for routing to support staff for mailing

CERP - Measure Success

- ♦ The best measure of success of the enforcement response program is the resulting compliance record of those entities that have been affected by the program.
 - Monitor the compliance history of those businesses that have received actions from our enforcement response program to see if their compliance has indeed increased. There should also an improvement in the compliance of other entities that have not been directly affected by our enforcement response program just through peer or industry contact, but that would be difficult if not impossible to measure in many cases.
 - An example would be the timeliness of PUR submission. When we adopted a vigorous enforcement response program for late submission, the timeliness of PUR submission increased dramatically over a year long period.